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9 State Bar Number: 19272
10 Pima County Computer Number: 65338

11 **IN THE SUPERIOR COURT FOR THE COUNTY OF PIMA**
12 **STATE OF ARIZONA**

13 STATE OF ARIZONA ex rel. MARK
14 BRNOVICH,

15 Plaintiff,

16 vs.

17 KAREN SCHIMMEL and JOHN DOE
18 SCHIMMEL, Individually and as part of
19 Or on behalf of any Marital, Business,
20 Corporate, Trust or other Community

21 Defendant.

Case No.: C- 2019 1151

**CLAIMANT SCHIMMEL'S
VERIFIED CLAIM IN
CONTRAVENTION OF FORFEITURE**

22) Assigned: Hon. R. Gordon

23 Petitioner, Karen Schimmel, hereby files her verified claim in
24 contravention of forfeiture as proposed by the state of Arizona. This claim
25 satisfies the requirements of ARS § 13 - 4311 (D) (E) (F). pursuant to ARS § 13
26 - 4311 (D), petitioner requests that this court set a hearing at an appropriate
27 time and after an appropriate time for discovery to adjudicate the validity of
28 claimant's claim herein.

FILED
GARY L. ARDISON
CLERK
19
19 MAR 21 PM 12:51

BY: J. ORR. DEPUTY

1
2 Pursuant to ARS § 13 - 4311 (E), claimant sets forth the averments that
3 follow in support of her claim.
4

5
6 **THE CLAIMANT'S NAME AND THE ADDRESS AT WHICH THE**
7 **CLAIMANT WILL ACCEPT FUTURE MAILINGS FROM THE COURT**
8 **OR ATTORNEY FOR THE STATE.**

9 Karen Schimmel
10 C/O THE RESNICK LAW GROUP, PLLC
11 100 North Stone Avenue, Suite 801
12 Tucson, Arizona 85701

13 **THE NATURE AND EXTENT OF THE CLAIMANT'S INTEREST IN**
14 **THE PROPERTY.**

15 As to real property located at 7489 W. Bucking Horse Rd., Sahuarita, Pima
16 County, Arizona (listed as number 78 in Appendix 1 of state's Notice of Seizure
17 for Forfeiture *in personam* and *in rem* and notice of pending forfeiture *in rem*.)
18 (Hereinafter, "No. 78")
19

20 As to 10 acres of this property including the residence thereon, defendant
21 owns the property and home in fee simple and has an exclusive and undivided
22 100% interest in the property.
23

24 As to the remaining land on the property the claimant has a 100%
25 possessory interest in the property and the property is secured by a lien held by
26 Stewart title. The claimant has approximately \$12,000 in equity interest in the
27 property out of approximately \$190,000 originally owed.
28

1 As to real property located at 7476 W. Bucking Horse Rd., Sahaurita, Pima
2 County Arizona (listed as number 79 in Appendix 1 of state's Notice of Seizure
3 for Forfeiture *in personam* and *in rem* and notice of pending forfeiture *in*
4 *rem*)(Hereinafter, "No. 79").
5

6 As to this property claimant has approximately a \$12,000 equity interest
7 in the property from an initial purchase price of \$190,000; the property is
8 secured by a lien through Stewart title.
9

10 As to \$1609.93 in US currency from Chase bank account ending in 1989
11 subscribed to by Karen Schimmel (listed as number 14 in Appendix 1 of state's
12 Notice of Seizure for Forfeiture *in personam* and *in rem* and notice of pending
13 forfeiture *in rem*)(Hereinafter, "No. 14").
14

15 The claimant is a 100% undivided interest holder in this currency.

16 As to \$36,559.12 in US currency from Chase bank account ending in 7464
17 subscribed to by Karen Schimmel (listed as number 15 in Appendix 1 of state's
18 Notice of Seizure for Forfeiture *in personam* and *in rem* and notice of pending
19 forfeiture *in rem*)(Hereinafter, "No. 15")
20

21 The claimant is a 100% undivided interest holder in this currency.

22 As to \$5000.82 in US currency from Chase bank account ending in 4361
23 subscribed to by Karen Schimmel (listed as number 16 in Appendix 1 of state's
24 Notice of Seizure for Forfeiture *in personam* and *in rem* and notice of pending
25 forfeiture *in rem*)(Hereinafter, "No. 16")
26

27 The claimant is a 100% undivided interest holder in this currency.
28

1 As to Phillips TV, SN: DS2A1491110123 (listed as number 98 in Appendix
2 1 of state's Notice of Seizure for Forfeiture *in personam* and *in rem* and notice of
3 pending forfeiture *in rem*)(Hereinafter, "No. 98")
4

5 The claimant is a 100% undivided interest holder in this television.

6 As to Sharp TV, SN: 11015344 (listed as number 99 in Appendix 1 of
7 state's Notice of Seizure for Forfeiture *in personam* and *in rem* and notice of
8 pending forfeiture *in rem*)(Hereinafter, "No. 99")
9

10 The claimant is a 100% undivided interest holder in this television.

11 As to 2010 Ford Mustang, AZ plate: BRN 2978; VIN: 1ZVBP8CH9A
12 5109546 (listed as number 66 in Appendix 1 of state's Notice of Seizure for
13 Forfeiture *in personam* and *in rem* and notice of pending forfeiture *in rem*)
14 (hereinafter, "No. 66")
15

16 The defendant is 100% undivided the owner of this vehicle. There is a lien
17 in place in favor of Bridgecrest Acceptance Company.

18 **THE DATE, IDENTITY OF THE TRANSFEROR AND THE**
19 **CIRCUMSTANCES OF THE CLAIMANT'S ACQUISITION OF THE**
20 **INTEREST IN THE PROPERTY.**

21 **No(s). 14, 15, 16:**
22

23 The claimant acquired interest/title to this property (currency) in late
24 2008 or early 2009. The currency was inherited as a result of the death of
25 claimant's husband. The accounts were opened after his death.
26
27 ...
28 ...

1 **No. 66:**

2 The claimant acquired her interest in the property in 2015. She was a bona
3 fide purchaser for value from drivetime, and automobile sales and service
4 concern in Tucson Arizona. She placed \$3000 in US currency as a down payment
5 and paid the remainder from the trust account left to her by her deceased
6 husband. At the time of seizure, this property was in the possession of Nancy
7 Maclusky, to whom it had been loaned by the claimant.
8
9

10 **No. 78:**

11 The claimant acquired her interest to 10 acres of land and the residence
12 thereon in 2016. The purchase price was \$190,000. the defendant paid \$15,000
13 per month from the trust left to her by her deceased husband. The property was
14 acquired from Charlie Weaver.
15

16 Claimant acquired the remaining interest from Charley Weaver, the
17 father of Charlie Weaver, at approximately the same time. However, to date the
18 claimant has paid approximately \$12,000 of the \$190,000 purchase price
19 towards the remaining land. The defendant makes payments to Stewart title.
20

21 **No. 79:**

22 The claimant purchased this 20 acre lot in 2017 from Charley Weaver.
23 The original purchase price was \$190,000 and the claimant has been making
24 payments of \$1000 per month as part of the agreed-upon contract. The source of
25 the funds used to make these payments is the trust left to the claimant by her
26 deceased husband.
27
28

...

1 **No. 98:**

2 The claimant acquired this property when it was abandoned in her care by
3 Mark Albrecht in 2018.

4 **No. 99:**

5 The claimant acquired this property from Aarons, and electronics concern
6 in Tucson Arizona in 2017. The defendant made installment payments from the
7 money received monthly from the trust left to her by her deceased husband. The
8 defendant finished paying for this property in 2019.

9
10
11
12 **THE SPECIFIC PROVISIONS OF ARS CHAPTER 39, TITLE 13 RELIED**
13 **UPON IN ASSERTING THAT THE PROPERTY IS NOT SUBJECT TO**
14 **FORFEITURE.**

15 **No(s) 14,15,16, 98, 99:**

16 ARS § 13-4304 (3) and (4) and ARS § 13 - 3413 (B) is inapplicable to this
17 property.

18 This currency was acquired either prior to or during the conduct giving
19 rise to forfeiture and Ms. Schimmel did not empower any person whose act or
20 omission gives rise to forfeiture with legal or equitable power to convey any
21 interest nor was she married to any person similarly situated and she could not
22 have known or reasonably known that any of the acts which give rise to
23 forfeiture herein were going to occur. Additionally, this currency is not traceable
24 to an offense that is included in chapter 34, title 13 and none of the claimant
25 conduct was committed for financial gain. Additionally, none of the proceeds
26
27
28

1 seized are traceable to an offense that is chargeable or indictable under the laws
2 of the state or punishable by imprisonment for more than a year or involved
3 prohibited drugs marijuana or prohibited chemicals or substances or were
4 committed for financial gain. all of the currency herein was acquired legally and
5 maintained in legal accounts. None was used for any conduct which would give
6 rise to forfeiture.
7

8 **No. 66:**

9
10 ARS § 13-4304 (1) and (4) and ARS § 13 - 3413(A) and (B) is inapplicable
11 to this property.

12 This property is not subject to forfeiture pursuant to 13 - 3413 for the
13 reason that this vehicle was not used to transport or in any manner facilitate the
14 transportation, sale or receipt of, or to contain any drug. Further, none of the
15 proceeds used to purchase this vehicle or to maintain it are as a result of an
16 offense committed for financial gain pursuant to chapter 34, title 13.
17 Additionally, pursuant to 13 - 3413, at no time was this vehicle involved in the
18 consumer transportation or the proceeds of any unlawful substance greater than
19 the statutory threshold alleged in 13 - 3401, nor was the vehicle used to
20 complete any offense or any act for financial gain.
21

22
23 Additionally, the claimant acquired her interest before or during the
24 conduct giving rise to forfeiture and could not have reasonably known any of the
25 acts or omissions giving rise to forfeiture were going to occur. Additionally, she
26 did not empower any person whose act or omission gives rise to any forfeiture
27
28

1 with any legal or equitable power to convey any interest in this vehicle that
2 would leave it subject to forfeiture.
3
4

5 **No(s) 78,79:**

6 ARS § 13-4304 (3) and (4) and ARS § 13 - 3413(A) and (B)

7 This property was purchased prior to any of the acts alleged to be subject
8 to forfeiture herein. Additionally, none of the money used for the purchase
9 maintenance or operation of the properties was as a result of any conduct which
10 would subject the property to forfeiture pursuant to chapter 34, title 13.
11

12 Additionally, no conduct took place on this property which render it subject to
13 forfeiture. The claimant acquired her interest in the property before or during
14 the conduct giving rise to forfeiture and did not empower any person whose act
15 or omission gives rise to forfeiture with legal or equitable power to convey any
16 interest and did not marry any such person, nor could she know or reasonably
17 have known of the acts or omissions giving rise to forfeiture would occur.
18

19 Additionally, the claimant was a bona fide purchaser for value and the source of
20 the funds used for the purchase maintenance and operation of this property was
21 solely as a result of a legal source.
22
23

24 **ALL FACTS SUPPORTING EACH SUCH ASSERTION**

25 Bank and purchase records in the possession of the state as well as
26 banking and personal records in the possession of the claimant establish that all
27 of these aforementioned properties were purchased prior to any act of any kind
28

1 giving rise to forfeiture and none of them were used during any offense which
2 would give rise to forfeiture, and they are subject to exceptions to forfeiture.

3 **ANY ADDITIONAL FACTS SUPPORTING THE CLAIMANT'S CLAIM**

4
5 Will supplement as discovery continues.

6
7 **THE PRECISE RELIEF SOUGHT**

8 Claimant requests the return of all of her property as she was a bona fide
9 purchaser for value and engaged in no conduct giving rise to forfeiture nor did
10 she suffer any person to conduct themselves utilizing any of the eight
11 aforementioned property in a manner that would give rise to forfeiture.
12

13 At the time of filing copies of the claim have been mailed to the seizing
14 agency and to the attorney for the state.
15

16
17 Dated this 19th of MARCH, 2019

18
19 
20 MARK R. RESNICK
21 ATTORNEY FOR KAREN SCHIMMEL
22

23 ORIGINAL filed this 19th day of MARCH 2019, with:

24 Clerk of the Court
25 PIMA COUNTY SUPERIOR COURT
26 110 West Congress Street
27 Tucson, Arizona 85701

28 COPY hand delivered to:

1 Chambers of Hon. R. Gordon
2 PIMA COUNTY SUPERIOR COURT
3 110 West Congress Street
4 Tucson, Arizona 85701

5 COPIES also served by Certified Mail this
6 ~~19~~ day of MARCH 2019, to:

7 Cochise County Sheriff's Department
8 ATTN: Asset Forfeiture Detectives
9 205 North Judd Drive
10 Bisbee, Arizona 85603

11 Attorney General's Office -CRM/FRS
12 ATTN: Tom Rankin, Assistant Attorney General
13 400 West Congress Street, S-315
14 Tucson, Arizona 85701
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C 2019 1151

VERIFICATION

STATE OF ARIZONA)

) SS.

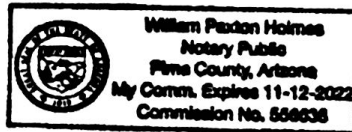
COUNTY OF PIMA)

I, **KAREN SCHIMMEL**, being first duly sworn upon my oath, hereby
deposes and says:

That I have read the foregoing CLAIM IN CONTRAVENTION OF
FORFEITURE and the contents and allegations therein are true and
correct.

Karen A. Schimmel
Claimant

SUBSCRIBED AND SWORN before me this 20th day of March,
2019.



William Paxton Holmes
Notary Public

My Commission Expires: November 12th, 2022.